

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CRESCENCIO GALVEZ and
GUADALUPE GALVEZ, individually
and on behalf of all others similarly
situated,

Plaintiffs,

v.

TOUCH-TEL U.S.A., L.P. dba
TOUCH-TEL USA, LLC,

Defendant.

Case No. CV08-05642-RGK (JCx)

CLASS ACTION

**[PROPOSED] ORDER GRANTING
STIPULATION OF AND
ENTERING ORDER OF
DISMISSAL PURSUANT TO FED.
R. CIV. P. 41(a)(2)**

Hearing Date: N/A
Time: N/A
Judge: Hon. R. Gary Klausner
Trial Date: May 3, 2011

Complaint Filed: August 27, 2008

WHEREAS, based upon the amended stipulation of the parties dated April 22, 2011, which is attached hereto as Ex. 1, the Court has been requested to enter a Judgment of Dismissal of the Plaintiffs' remaining individual Common Law claims in this Action pursuant to Fed. R. Civ., Proc. Rule 41(a)(2).


Based on the stipulation of the parties, and good cause appearing therefor, the Court hereby orders that a Judgment of Dismissal be entered as follows:

1. Plaintiffs' remaining individual Common Law claims in the above-entitled action are hereby dismissed with prejudice as against Defendant pursuant to Fed. R. Civ. P. 41(a)(2).

1 2. The Clerk of the Court is hereby directed to enter a Judgment of
2 Dismissal of Plaintiffs' remaining individual Common Law claims.

3 3. The parties retain any and all rights they are entitled to under the law.

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5 DATED: April 27, 2011


Hon. R. GARY KLAUSNER
United States District Court Judge

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EXHIBIT “1”

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11 [Additional Counsel Appear on Signature Page]

12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**
14 **WESTERN DIVISION**

15 CRESCENCIO GALVEZ and
16 GUADALUPE GALVEZ, individually
and on behalf of all others similarly
17 situated,

18 Plaintiffs,

19 v.

20 TOUCH-TEL U.S.A., L.P. dba
TOUCH-TEL USA, LLC,

21 Defendant.

Case No. CV08-05642-RGK (JCx)

CLASS ACTION

**AMENDED STIPULATION OF
VOLUNTARY DISMISSAL
PURSUANT TO FED. R. CIV. P.
41(a)(2)**

Hearing Date: N/A
Time: N/A
Judge: Hon. R. Gary Klausner
Trial Date: May 3, 2011

Courtroom: Hon. R. Gary Klausner
Complaint Filed: August 27, 2008

24 WHEREAS, on August 27, 2008, Plaintiffs CRESCENCIO GALVEZ and
25 GUADALUPE GALVEZ ("Plaintiffs") filed an action against TOUCH-TEL
26 U.S.A., L.P. dba TOUCH-TEL USA, LLC ("Touch-Tel") entitled *Galvez v. Touch-*
27 *Tel*, Case No. CV08-05642-RGK (JCx) (the "Action"), which was assigned to the
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1 Honorable R. Gary Klausner of the Central District of California (“Court”);

2 WHEREAS, on December 8, 2009, the Court in the Action denied the
3 Plaintiffs’ motion for class certification (Dkt. No. 109) (the “Class Certification
4 Order”);

5 WHEREAS, on March 16, 2010, the Court in the Action denied Plaintiffs’
6 motion for reconsideration of that Order (Dkt. No. 116) (the “Motion for
7 Reconsideration Order”);

8 WHEREAS, on March 9, 2010, the Ninth Circuit Court of Appeals denied
9 Plaintiffs’ motion for interlocutory appeal pursuant to Fed. R. Civ. Proc. Rule 23(f);

10 WHEREAS, on March 28, 2011, after remand from the Ninth Circuit, the
11 Court granted Touch-Tel’s motion for summary judgment on Plaintiffs’ claims for
12 relief under the Unfair Competition Law, Cal. Bus. & Prof Code §§17200 and
13 17500, *et seq.*, as well as Plaintiffs’ claims for relief under the Consumers Legal
14 Remedies Act, Cal. Civ. Code §1750, *et seq.*, but denied summary judgment as to
15 Plaintiffs’ individual common law claims for declaratory relief and common
16 counts/unjust enrichment (Dkt. No. 212) (the “Summary Judgment Order”);

17 WHEREAS, the Plaintiffs’ remaining individual claims that were not
18 dismissed by virtue of the Summary Judgment Order are set to go to trial before the
19 Court on May 3, 2011;

20 WHEREAS, without any admission of liability on the part of either party and
21 without prejudice to any party’s right to appeal or challenge on appeal the Court’s
22 rulings on the Class Certification Order, the Motion for Reconsideration Order and
23 the Summary Judgment Order, the parties desire to avoid trial of these remaining
24 individual claims while preserving the ability to perfect, prosecute and defend all
25 rights they are entitled to under the law;

26 WHEREAS, Plaintiffs expressly and unequivocally reserve a personal stake
27 and continuing direct, substantial and immediate interest in all claims asserted in
28 the Action other than their individual Common Law Claims, including, *inter alia*,

1 those addressed by the Court's Class Certification Order (ECF No. 109), Motion for
2 Reconsideration Order (ECF No. 116) and Summary Judgment Order (ECF
3 No. 212), and in spreading and shifting a portion of any fees and expenses incurred
4 as the purported representatives of or counsel for the putative class identified in the
5 Action to putative class litigants in the event they are successful on appeal,
6 including Plaintiffs' counsels' attorneys' fees or costs, Plaintiffs' claims for
7 compensation as class representatives, or any other interests they may have to
8 represent the putative class in pursuing the rights to class representation or class
9 certification, as a member or representative of the putative class.

10 THEREFORE, to resolve Plaintiffs' individual common law claims for
11 (1) Breach of Contract; (2) Money Had and Received/Unjust Enrichment; and
12 (3) Declaratory Relief (collectively, the "Common Law Claims"), Defendant Touch-
13 Tel has agreed to pay to Plaintiffs \$3,500. The parties agree that such payment is not
14 to be construed as an admission of liability or wrongdoing on the part of Touch-Tel.

15 In recognition of the foregoing, the parties stipulate that Plaintiffs' Common
16 Law Claims in the above-entitled action will hereby be voluntarily dismissed against
17 Defendant pursuant to Fed. R. Civ. P. 41(a)(2) and a Judgment of Dismissal of such
18 claims entered by the Court. In entering into this Stipulation the parties expressly
19 agree that the Court will enter a Judgment of Dismissal dismissing the Common Law
20 Claims with prejudice and dismissing the Action while retaining any and all rights
21 they are entitled to under the law.

22 DATED: April 22, 2011

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2 DATED this 22nd day of April, 2011
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25 (identified by plaintiffs as "Touch-Tel U.S.A.,
26 L.P.")
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